



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

We are not fighting for terms, or territorial boundaries between rival powers. If we were they could perhaps be settled without more bloodshed. There is, in fact, a very grave danger from a misunderstanding on this point.

It is not at all improbable that within a few weeks Germany may propose to make peace on terms that appear on their face reasonable and moderate. She may offer to retire from Belgium and France and even to contribute toward the damage suffered, to cede Alsace and Lorraine or leave their future to be decided by plebiscite, to give the Trentino and Trieste to Italy, to relinquish all claim to the captured colonies, to promise some kind of autonomy to the various races in Central and Eastern Europe, and to agree that the sinking of merchant ships by submarines, the dropping of bombs by aeroplanes, the use of poisonous gas, and the other barbarities she has practised, shall not again be permitted in war. Such an offer would be highly seductive, and, if we are not prepared to understand what it means, might well beguile the Allies into a delusive peace. The peace would be delusive for, unless the principle of militarism is destroyed, the promises would be kept no better than those broken in the past. Autonomy of other races would mean their organization for the strengthening of Germany; until she had control of the resources of a population of two hundred millions for her next war; and the abandonment of her former colonies would be made only with the hope of recoupment in South America on a more favorable occasion.

Such a settlement would be a mere truce pending a strife more fierce hereafter. So long as the principle is not overthrown, that he may take who has the power and he may keep who can; so long as predatory militarism is not wholly destroyed, as slavery was destroyed by our Civil War—a result which no one, either North or South, now laments; so long as these results are not attained no lasting peace can be made.

If the upshot of this war is inconclusive the whole world will be preparing for another.

LABOR'S MESSAGE

The words in part of Mr. Hugh Frayne of New York

LABOR is at work in the workshops, and in the mines, to produce the minerals that make the powerful guns and the shells and the ammunition necessary for our men to fight. There are the men in the local mines who produce the coal so necessary to make the steam that operates the plants and the engines on the railroad that transports not only the soldiers but the supplies necessary to feed and equip them, as well as to furnish the civil population of our country. Naturally, labor is interested in this work. They are contributing more each day. You have read of the shortcomings of a few, and when the truth was learned, it was found that men who had not yet been efficiently trained expected to do a much higher task than they had been equipped to do. But have you not read within the last few days where men in the shipyards and other places are doing tasks so great that it was absolutely unheard of in pre-war times? And these men, realizing that we

must have soldiers first, many of them are contributing their sons, some three, four and five, for that cause. The fathers and the brothers of the workmen in large numbers have gone to the army to serve in this cause. They have contributed out of their small earnings to every cause and purpose that had for its purpose the victory which all Americans are so anxious to see.

Labor, in every phase of life, is going to do its duty, but labor is not going to be exploited. The man who takes advantage of labor in this crisis, the man who fails to recognize that justice belongs to labor, not only now, but at all times, does not come up to the hundred per cent citizen that we all expect and hope and want to see. Hence he has failed in his duty in that respect.

JAMES BROWN SCOTT*

A Sketch of His Services to the Cause of Justice Between Nations

By ARTHUR DEERIN CALL

SPEAKING before the Constitutional Convention of 1787, in the session of August 13, Mr. John Dickinson, "Penman of the Revolution," highly cultivated Governor of Delaware and later also of Pennsylvania, expressed in two sentences what appears to be the bases of the significant labors of James Brown Scott. Mr. Dickinson said: "Experience must be our only guide. Reason may mislead us." Many live and strive for better things in terms of reason, and that with varying degrees of advantage to the social purpose. Mr. Scott brings to internationally minded men an infinite array of international experiences, and shows to the doubting Thomases among States not so much what unaided reason would suggest that they do as what has already been accomplished by them. Such a service is a service indeed, because States rarely act upon reason, whether that reason be "right reason," "pure reason" or just plain reason. States decide and do things primarily upon precedent. In 1888 the brilliant young editor, explorer and diplomat, Allen Thorndike Rice, wrote in the columns of his *North American Review*, shortly before his untimely death, these words: "If we may define statesmanship it seems to be experience, codified, made tangible and applied to the exigencies of national life. It deals, not with theories, nor with nebulous, poetic imaginings and aspirations, but with concrete social facts and forces. Its trail is not an acrobat's invisible wire, but a firm rock-hewn path, lighted by the unflickering lamp of history. . . . And it is exactly in proportion as they deal with facts and not theories—as they consult the market instead of the oracle—that national leaders leave their impress on their generation, and that civilization is established and extended from zone to zone—from protoplasm to America." It is characteristic of Mr. Scott that all of his writings are concerned with the experience of

* This article was written for the *World Court Magazine* upon the request of its editor, and is here reproduced with his permission.

nations, not as a historian merely, but as a scientist marshalling his facts for new advances in the thought and behavior of nations.

Mr. Scott is a qualified specialist in his field. In 1912, Mr. Robert Lansing, our present Secretary of State, wrote of him: "He is undoubtedly today the most prominent American advocate of a judicial system which will issue equal justice to all nations, both great and small." Later in the same article, referring to Mr. Scott's position as the Secretary of the Carnegie Endowment for International Peace, he added: "His erudition, earnestness, ability, industry, make him especially fitted to meet the responsibility and to perform the duty which he has assumed."

These views seem to be highly justified by the facts. Having graduated from Harvard in 1890, he was at twenty-five years of age specializing in International law as "Parker Fellow" of his college in Europe. Three years were spent in these studies, at Berlin, Paris and Heidelberg. He received the degree of *Juris utriusque Doctor* from Heidelberg in 1894, after which he returned to this country, with a ready command of several European languages, and began the practice of law in Los Angeles, in the State of California. He organized the Los Angeles Law School, now a department of the University of Southern California, and served three years as its Dean. Beginning in 1899, he was for four years Dean of the College of Law at the University of Illinois, after which he became Professor of Law at Columbia University, where he remained for three years. In 1906, Mr. Elihu Root, then Secretary of State, called him to the position of Solicitor for the Department of State, which position he held until 1910, when he became Trustee and Secretary of Carnegie Endowment for International Peace. He was Professor of Law at the University of Chicago for the summer quarter of 1905. He was Professor of Law at George Washington University 1905-6, and of International Law 1906-11. Beginning in 1909, he was Lecturer on International Law at Johns Hopkins University for six years.

Mr. Scott was a member of the Educational Congress at the Paris Exposition and Honorary Chairman of the Section of Legal Education, in 1900. In 1904 he was Chairman of the Section of International Law in the Congress of Education at the St. Louis Exposition, and the same year he was delegate to the Universal Congress of Lawyers and Jurists at St. Louis. He was one of the founders of the American Society of International Law in 1906, and he has been Editor-in-Chief of its quarterly, *The American Journal of International Law*, since its establishment in 1907. He is a member of the European Institute of International Law, and is now the president of the American Institute of International Law, for the existence of which he is largely responsible. In 1907 he was a member of the American Delegation to the Second Peace Conference at The Hague, serving that delegation as technical delegate and expert in international law. He was one of the American counsel in the "North Atlantic Coast Fisheries Arbitration" in 1910, in which year he also represented the United States Government at two European

conferences called in the interests of an International Court of Justice.

In August, 1914, upon the outbreak of the war, Mr. Scott became special advisor to the Department of State, and chairman of "The Joint State and Navy Neutrality Board," to which questions affecting the neutrality of the United States were referred for advice and opinion. It was this last experience which enabled him to give to us his book, "A Survey of International Relations Between United States and Germany, 1914-1917," a work of extraordinary attention to detail and of painstaking accuracy, revealing the German conceptions of the State, and, through nineteen chapters, tracing the genesis of the present war, analyzing the neutrality of the United States, and setting forth the pertinent facts relative to the many complicated issues that faced this country and Germany from August 1, 1914, to April 6, 1917.

His first volume published in 1902, was "Cases on International Law," an enlarged and revised edition of Freeman Snow's "Cases and Opinions" issued nine years previously. Among his other works are: "The Hague Peace Conferences of 1899 and 1907," two volumes; "An International Court of Justice;" "The Status of the International Court of Justice," "A Survey of International Relations Between United States and Germany, 1914-1917." He is the general editor of the monumental series known as "The Classics of International Law," undertaken by the Carnegie Institution of Washington, and now continued by the Carnegie Endowment for International Peace, of which series twelve volumes have already appeared. In addition, he has edited in two volumes the "Diplomatic Documents Relating to the Outbreak of the European War;" a volume entitled "The Hague Conferences of 1899-1907;" and "Resolutions of the Institute of International Law." He has recently brought out a new edition of William Ladd's "Essay on a Congress of Nations," to which he has contributed a valuable introduction. The "Declaration of the Rights and Duties of Nations," with the commentary thereon, adopted by the American Institute of International Law at its first session in the city of Washington, January 6, 1916, and the series of recommendations known as the "Recommendations of Havana," with commentary, adopted by the American Institute at its meeting in Havana, Cuba, January 22-27, 1917, which if accepted and put into practice would indeed make of the nations a governed world, were drafted by Mr. Scott.

Mr. Elihu Root, speaking of Mr. Scott's work as Director of the Division of International Law of the Carnegie Endowment, has recently felt justified in saying that this Division of the Endowment, "has published or contributed to the publication of a series of works which furnish the same kind of foundation for effective consideration of the questions which will arise in a Peace Conference that Madison's Notes and Elliot's Debates, and *The Federalist*, and the earlier history of the development of Constitutional Law in the United States furnish for the consideration of interstate questions in America." Mr. Root adds: "An examination of these works will show that they bring to the aid of the minds which will be addressed to the seri-

ous and difficult questions of the coming Peace Conference, the benefit of consideration upon the same subject of some of the greatest men who have made contributions to the science of government. The matter which they contain is for the most part quite unknown in Europe, and to an amazing degree unknown in America among men of practical affairs."

But, Mr. Scott's distinct interest and contribution, especially since 1907, has been in the direction of a High Court of Nations, or as he more appropriately calls it, an International Court of Justice. He has adopted the faith expressed by Burke in his "Impeachment of Warren Hastings" that "There is but one law for all, namely, the law which governs all law, the law of our Creator, the law of humanity, justice, equity—the law of Nature and of Nations." For this reason he looks to the promotion of justice as between States through judicial organs and processes. He is quite aware of the delusion which leads men to seek the salvation of the race in political machinery merely, a delusion very common in the early part of the last century; but he is mindful that what has been done can be done, especially when it is imperative that it be done.

He was present, as we have said, at the Second Peace Conference at The Hague in 1907. He was thoroughly acquainted with the instructions from Mr. Elihu Root to our American Delegation. He played no small part in compiling the Draft Convention of thirty-five articles providing for the organization, jurisdiction, and the procedure of the proposed tribunal frequently called "The Court of Arbitral Justice." He has since studied with great care our own Constitutional Convention of 1787, particularly with reference to the origin and growth of the United States Supreme Court, and especially the part that Court has played as an international body deciding cases between sovereign States. He is therefore proposing for the nations no new and untried thing. He is showing to them how peace is actually maintained between forty-eight States, a lesson the nations can afford to learn.

The writer of this article has been privileged to see page proofs of two volumes about to appear entitled "Judicial Settlement of Controversies Between States of the American Union," cases decided in the Supreme Court of the United States, collected and edited by Mr. Scott. These volumes, containing the contribution of the Supreme Court of the United States to the judicial settlement of international disputes, are to be accompanied by a further volume on the procedure and practice of the Court in the settlement of such controversies. A war-torn world will turn eventually to these cases as the hart to the water brook, for, since States are concerned mostly with what has been done, they will, at the reorganization to follow this war, turn to the experience of the Supreme Court of these United States with attention and a growing conviction that that experience is of value to the Society of Nations. They will be interested to know that we have a Court of States in which the States consent to be sued, and are sued, without recourse to diplomacy or force, and that they abide by its decisions. They will be influenced by the fact that

in 1787 the founders of that "more perfect union" which we call the United States of America provided for a Court of their own creation midway between diplomacy and the outbreak of war, and by the further fact that since its establishment in 1789 to the present writing there have been eighty controversies between States "argued, debated and decided in that tribunal." As Mr. Scott says in his prefatory note to these volumes about to appear, "As the result of argument, debate and decision, practice has been settled, and procedure adopted in the light of experience as applicable to States of the Society of Nations, as to States of the American Union. The essence and function of judicial power have been noted and analyzed; the distinction between judicial power, on the one hand, and legislative and executive, or political power, on the other, has been made so clear in a long course of decisions, that he who runs may read, and the judicial settlement of justiciable disputes by a court has been justified by precept, demonstrated by practice and vindicated by results."

The Supreme Court of the United States is more than a "little candle;" it is a beacon light across the darkness; it is as "a good deed in a naughty world." It is of importance that men should see this "light," and know of this "deed." For, "To many it seems that the Court of the States of the American Union is the prototype of that tribunal which they would like to see created by the Society of Nations, 'accessible to all, in the midst of the independent powers'." Mr. Scott adds: "It is believed that . . . a careful consideration of the controversies between States, decided in the Supreme Court, will convince the layman, as well as the practitioner, that what forty-eight States of the American Union do, a like number of States forming the Society of Nations can also do, and that the Supreme Court of the one, and an International Court of Justice of the other, can in both decide controversies between them, according to that due process of law which obtains between individuals, and without which, neither States nor Nations can hope to endure."

It is difficult to measure the value of men laboring in our very midst. But if we recall the argument of Socrates in The Republic that in the perfect state, justice and happiness will coincide and that when justice has been once found happiness may be left to take care of itself, we may then conclude that man, interested in substituting the methods of justice for the methods of war, will welcome every attempt to find a way to the establishment of justice because human happiness itself depends upon it. That a few men see the way is heartening. In defining the uses of great men, Emerson remarks: "It is for man to tame the chaos: on every side, whilst he lives, to scatter the seeds of science and of song, that climate, corn, animals, man, may be milder, and the germs of love and benefit may be multiplied." By revealing to nations the hopeful history of one hundred twenty years of successful international judicial decisions of issues joined between States, it will be generally agreed that Mr. Scott is scattering "seeds of science" that "benefit may be multiplied." Not a few of us have learned to believe further that he meets the other uses mentioned by Mr. Emerson.